



On A : 15/14/98

(2)

APPEAL PRISONER

S.T. 22/97

D63 (on)

No. 754

Name जलधर

Father's Name सुकमन

Resident 288 - डिशन राईस मिल के लगगे जग

Age 51 Sentenced to आजीवन कारावास/2 वर्ष on 29. 7. 97

Under Section 302, 324 I.P.C. by I A.S.T. Jagdalpur -

It is explained to the prisoner that if he states or wishes to be represented by a legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may be heard at all if legal practitioner the court may proceed at once with the case and will not be obliged to give a bearing to any legal practitioner who should appear.

1. Date of application for copy of Judgement :- No.

2. Date of which copy received :- 29. 7. 97

3. Date on which appeal sent :- 5. 8. 97

4. Whether the prisoner wished to be represented or not :-

Yes / No

No. 754 Name जलधर 310 सुकमन

Continued in जिला Jail जगदलपुर

No. 716 / octagon Dated 5/8/97

Forwarded to the CHIEF JUDICIAL MAGISTRATE Jagdalpur

together with a copy of Judgement or order passed in the case for favour of transmission to the proper Appellate Court.

Su perintendent Central / Distt / Sub-Jail.

जगदलपुर

Date of receipt in C. J. M. Office. 9/8/97

Date of receipt of record to accompany. -

Memo of Appeal of the Appellate Court. -

No. 1 (E) dated 11.8.97

Forwarded to the Hble S.J.JDR

C. R. MAGISTRATE

(महेन्द्र रावत)

मुख्य न्यायिक मजिस्ट्रेट

जगदलपुर

Date of receipt in Appellate Court

HIGH COURT OF CHHATTISGARH : BILASPUR**CRIMINAL APPEAL NO. 1514 OF 1998****Jalandhar****Vs.****State of Madhya Pradesh
(Now Chhattisgarh)****JUDGMENT FOR CONSIDERATION****Sd/-
Fakhruddin
Judge****21-6-2006****Hon'ble Shri Justice V.K. Shrivastava***g. do. agree***Sd/-
V.K. Shrivastava
Judge****post for 21-6-2006****Sd/-
Fakhruddin
Judge
21-6-2006**

HIGH COURT OF CHHATTISGARH : BILASPUR

CRIMINAL APPEAL NO. 1514 OF 1998

Jalandhar

Vs.

**State of Madhya Pradesh
(Now Chhattisgarh)**

**CORAM :- HON'BLE SHRI FAKHRUDDIN, J &
HON'BLE SHRI V.K. SHRIVASTAVA, J**

Present :- Shri Praveen Das, counsel for the appellant.
Shri C.R. Sahu, Panel Lawyer for the State.

Per Hon'ble Shri Fakhruddin, J

J U D G M E N T

Heard learned counsel for the parties.

2. The appellant has preferred this appeal against the judgment dated 29-7-1997 passed in Sessions Trial No.22/97 by the First Additional Sessions Judge, Bastar, Jagdalpur, whereby he has been convicted under Section 302 of the Indian Penal Code for committing murder of Jamvati Bai and sentenced to undergo imprisonment for life & under Section 324 of the Indian Penal Code for causing injury to Sevti Bai and sentenced to undergo R.I. for two years. Both the sentences are directed to run concurrently.

3. Briefly stated the prosecution story is that on 1-11-1996 at 21.30 hrs. PW-1 Sevti Bai was returning to her home after work in the hotel. She saw that accused Jalandhar was quarreling with her

mother Jamvati Bai near Ratni Bai's house and he was defaming her. On being stopped by deceased Jamvati Bai, the accused inflicted repeated injuries on the chest and stomach of deceased by sharp edged weapon-knife with intention to kill her. When PW-1 Sevti Bai came to save her mother, the accused also inflicted injury to her left elbow. Deceased Jamvati Bai fell down and blood was oozing out. The deceased was taken to Maharani Hospital, Jagdalpur, where Doctor declared her dead. Report of the incident was lodged in the Police Station Bodhghat vide Ex.P/4 by PW-1 Sevti Bai.

4. On 2-11-1996, police prepared the panchnama of the dead body and sent it to Maharani Hospital for post mortem. Post mortem was conducted by Dr. R.R. Sahani (PW-7) and he submitted the report vide Ex.P/10. In the opinion of the Doctor the cause of death was due to shock as a result of injury over liver and lungs. Spot map was prepared. During investigation as per Ex.P/1 plain & blood stained soil was seized. Lungi & Shirt of the accused were seized vide seizure memo Ex.P/2. Memorandum of the accused was recorded vide Ex.P/6 and the knife was recovered at the instance of the accused vide Ex.P/7. The seized articles were sent for chemical examination and the report was received. The appellant was arrested. PW-1 Sevti Bai was also medically examined by PW-6 Dr. R.B.P. Gupta. Medical Report is Ex.P/9. In the said report the Doctor opined that the injury was caused by hard & sharp object.

5. After completion of the investigation charge sheet was filed against the accused in the Court of Judicial Magistrate, Jagdalpur who in turn committed the case to the Sessions Judge, Jagdalpur from where First Additional Sessions Judge received the case on transfer for trial.

6. The prosecution in order to establish the charge against the accused examined in all 7 witnesses namely; Sevti Bai (PW-1); Ratni Bai (PW-2); Bhagwati (PW-3); Vivek Jan (PW-4); Sanjay D. Devasthale (PW-5); Dr. R.B.P. Gupta (PW-6); and Dr. R.R. Sahani (PW-7). On the other hand statement of the accused was recorded under Section 313 of the Code of Criminal Procedure in which he denied the prosecution evidence appearing against him and stated that he is innocent and has been falsely implicated in the crime. Learned First Additional Sessions Judge after hearing the argument of respective counsel convicted and sentenced the accused as mentioned above.

7. As far as involvement of the accused/appellant in committing murder of Jamvati Bai and causing injury to Sevti Bai (PW-1) is concerned, Shri Das, learned counsel appearing for the appellant, contended that there is no evidence on record and the appellant has been falsely roped-in in the crime.

8. Shri Sahu, learned counsel appearing for the State, on the other hand, supported the judgment of the trial Court.

9. We have gone through the record minutely. We have also read the evidence of the witnesses. Sevti Bai (PW-1) is an injured witness who received injury while saving her deceased mother (Jamvati Bai). She lodged the report about the incident before the Police. She stated in her statement that the accused was working in the hotel of her deceased mother Jamvati. She further stated that while in the night she had seen her mother who was standing near the house of Ratni Bai, the accused inflicted injuries on the stomach and chest of her mother, and when she tried to intervene, the accused inflicted injury on her also. PW-1 stated that her mother was taken to the hospital where she was declared dead. In cross-examination, PW-1 Sevti Bai was asked about the relationship between the accused and her mother. She denied that the accused has kept her mother as his wife. In paragraph-7, PW-1 Sevti Bai has stated that some time her mother used to take liquor. She has denied that at the time of incident her mother was inside the house.

10. Ratni Bai (PW-2), stated that when she returned from the work, she saw the dead body of Jamvati which was lying near her house and persons were assembled there, but who had killed Jamvati she does not know. This witness was declared hostile.

11. Bhagwati (PW-3) stated that she heard the cries and came out. She has further stated that deceased Jamvati was lying near the drainage, Sevti Bai was standing there holding her hand and accused was also standing there. She also stated that Sevti Bai told

her that accused has killed her mother and beat her. PW-3 Bhagwati also stated that she had seen the injuries which were on the stomach and chest of deceased Jamvati. Jamvati was taken to the hospital where she was declared dead.

12. Dr. R.B.P. Gupta (PW-6) in his medical report (Ex.P/9) found the following injury on the injured person, namely, Sewti Bai (P.W.1):

"Incised wound 8 x 2 cm., left deltoid area muscle deep, blood positive."

Dr. R.B.P. Gupta (P.W.6) in his post-mortem report (Ex.P/10) found the following injuries on the person of the deceased, namely, Jamvati Bai:

"External injuries : (1) Incised wound - 4 cm. from sternum (mid line) at right mid clavicular region, obliquely placed size 2½ c.m. x 1 c.m. 5th intercostals space.

(2) Incised wound, below the xyphoid and 1½ cm right side to xyphoid, obliquely placed size 2½ cm x 1½ cm.

(3) Incised wound at the right anterior auxiliary line at the 4th intercostals space, obliquely placed size 1 x 1 x sketch deep.

(4) Incised wound right hand, dorsum aspect obliquely placed from writ joint to middle part of region size 5 c.m. X 0.2 c.m.

• Internal Injuries:

(1) Incised wound on liver anterior aspect of right lobe divided into two pieces while posteriorly intact, this injury corresponds to external injury No.2.

(2) Incised wound on right lung anterior aspect divided into anterior side, size about 8 cm. injury corresponds to external injury No. 1."

The cause of death shown to be shock as a result of injury over liver and lung.

13. There is nothing on record to discard the testimony of PW-1 Sevti Bai. PW-1 is a reliable witness. The evidence of PW-3 Bhagwati goes to show that at the time of incident the accused was present and immediately when she came out Sevti Bai informed her that accused had killed her mother and had also inflicted injury to her. The injuries and postmortem report go to show that the accused inflicted injuries on vital parts of the body of the deceased.

14. Having considered the facts and circumstances of the case, material on record, in view of the evidence given by Sevti Bai (PW-1) & Bhagwati (PW-3) and looking to the injuries and post-mortem report, the intention of the accused was absolutely clear to cause death of the deceased. No interference is called for in the finding recorded by the court below as the same is based on legal and clinching evidence.

15. Accordingly, the appeal fails and is dismissed.

Sd/-
Fakhruddin
Judge

21-6-2006

Sd/-
V.K. Shrivatava
Judge

Gowri/H